

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

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Amendment of Section 73.622(b)
Table of Allotments
Digital Television Broadcast Stations
(Ontario, California)

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MM Docket No. 01-23
RM-9960

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

COMMENTS OF
LOMA LINDA BROADCASTING NETWORK, INC.

Loma Linda Broadcasting Network, Inc. ("LLBN"), by counsel, hereby submits these Comments in response to the FCC's *Notice of Proposed Rule Making*, DA 01-182, released January 31, 2001 (the "NPRM"), in the above-captioned proceeding. The Commission proposes to amend the Digital Television Table of Allotments, §73.622(b) of the Commission's rules, so as to substitute DTV Channel 29 for DTV Channel 47 at Ontario, California. For the reasons stated below, LLBN opposes this proposal and urges the FCC to reject it.

LLBN is a producer and distributor of video programming which is released via cable television and satellite distribution nationwide. LLBN operates from headquarters in Loma Linda, California. Seeking a local broadcast outlet for its programming, LLBN has filed an application for a new low power television station at Banning, California on Channel 29 (File No. BNPTTL-20000831AZN). As is well-known, the television spectrum in Southern California is very congested. In preparation for the LPTV filing window last year, LLBN researched the entire area

within a reasonable distance of Loma Linda and could find an opportunity for a new station **only** on Channel 29 in the Banning area. The subject rulemaking proposal to allot DTV Channel 29 to Onatario is mutually exclusive with LLBN's proposal for a new LPTV station on Channel 29 at Banning. Therefore, if the proposal is adopted and a full service DTV station constructed on that channel, LLBN's LPTV application will be obliterated without any hope of finding or securing a substitute channel.

The Commission adopted the NPRM in response to a Petition for Rulemaking filed by USA Station Group Partnership of Southern California ("USA"), licensee of KHSC-TV, NTSC Channel 46, Ontario, California. The digital channel paired with KHSC-TV's NTSC Channel 46 is DTV Channel 47. USA requested the substitution of DTV Channel 29 for its DTV Channel 47 for several reasons. USA states that Channel 47 does not permit KHSC-DT to replicate KHSC-TV's analog service area. Another factor stated in support of USA's proposal was the potential to reduce interference with KOCE-DT, Huntington Beach, California, on Channel 48.

As documented in the accompanying engineering statement, these justifications for using Channel 29 instead of Channel 47 no longer pertain. USA's arguments are premised on obsolete information about KOCE-DT's facilities. On November 1, 1999, KOCE filed an application to move its transmitter site to Mt. Wilson, the same site specified for KHSC-DT. USA claims that it would cause impermissible interference to KOCE-DT if it were to operate with the 155 kilowatts of ERP it says that it would need to replicate its NTSC coverage. That might be true if the stations were not colocated. However, if operated from the same location, KHSC-DT will not interfere with KOCE-DT, even at 155 kilowatts ERP.

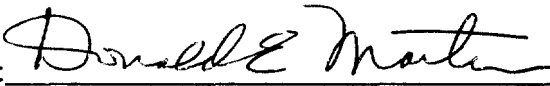
USA in its Petition, and the Commission in the NPRM, note that substituting Channel 29 for Channel 47 would reduce — but not eliminate — short-spacing to Mexican stations. Although this might appear to be a positive development, it would cause an unnecessary complication and still require Mexican consent as an amendment to the Table of Allotments. On the other hand, the existing allotment for Channel 47, although short-spaced, is permitted under the blanket acceptance of the initial Digital Television Table of Allotments. The status quo would require no additional international consents.

While the proposed channel substitution is not necessary to accommodate USA's ambitions for KHSC-DT's coverage, allotting Channel 29 to Ontario would cause irreparable harm to LLBN's efforts to establish a new on-air voice in the market. The Commission's allotment and assignment policies have always favored the development and/or maintenance of an abundance of separate media voices in the market. In this case, there would appear to be no countervailing rationale for precluding the development of a new LPTV station on Channel 29. As demonstrated, the use of Channel 29 is not required for KHSC-DT to operate with completely replicated full service facilities from its authorized site. The public interest would be better served in rejecting this proposed amendment to the DTV Table of Allotments at Ontario so as to permit an environment that would foster the development of a new media voice — an LPTV station on Channel 29.

For the foregoing reasons, LLBN urges the Commission to reject the proposed amendment to the Digital Television Table of Allotments.

Respectfully submitted,

LOMA LINDA BROADCASTING NETWORK

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March 26, 2001

In Review:
Proposed Substitution of Channel D29 for D47
Station KHSC-DT • Ontario, California

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Loma Linda Broadcasting Network, Inc. ("LLBN"), applicant for a new LPTV station on Channel N29 at Banning, California, to review the FCC's Notice of Proposed Rulemaking in MM Docket 01-23, issued in response to a Petition for Rulemaking submitted by USA Station Group Partnership of Southern California ("USA"), licensee of Station KHSC-TV, NTSC Channel 46, Ontario, California, to substitute DTV Channel 29 for the allotted KHSC-DT DTV Channel 47.

Background

LLBN has a pending application (FCC File No. BNPTTL20000831AZN) for a new LPTV station on NTSC Channel 29 to serve Banning, California, filed during the FCC's July 31–August 31 LPTV filing window. This application has no conflict with the KHSC-DT allotment on Channel D47, but would be mutually exclusive with KHSC-DT were it to commence operation on Channel D29.

KHSC-DT Channel Change Unnecessary

The KHSC-DT Petition states that substitution of Channel D29 for its allotted Channel D47 is necessary in order for KHSC-DT to achieve better replication of its NTSC coverage by maximizing its operation at Mt. Wilson to 155 kW ERP omnidirectional. The USA Petition claims that the KHSC-DT effective radiated power ("ERP") cannot be increased from its allotted 73 kW (DA) on Channel D47 without causing interference to first-adjacent Station KOCE-DT, Channel D48, at Huntington Beach, California. However, it must be noted that on November 1, 1999, six months prior to the May 1, 2000, USA Petition, KOCE-DT filed an application proposing to build its DTV facilities at Mt. Wilson, the allotted and permitted site for KHSC-DT, rather than at its NTSC site at La Habra Heights, some 68 kilometers distant. Thus, the basis of the USA Petition is not valid, since the KHSC-DT and KOCE-DT sites will, in fact, be collocated.

Furthermore, an OET-69 interference study will show that the proposed KOCE-DT Channel D48 facilities at Mt. Wilson would not receive any interference from KHSC-DT on its allotted Channel D47 even with KHSC-DT operating at its increased power. If waiver of the FCC Rules is required, with respect to protection of the KOCE-DT allotment, it is hereby requested.



In Review:
Proposed Substitution of Channel D29 for D47
Station KHSC-DT • Ontario, California

Mexican DTV Considerations

The July 31, 1998, U.S.-Mexico Memorandum of Understanding ("MOU") provides for each country to accept the other's initial table of DTV allotments, without regard to actual spacings; the spacing requirements in the MOU come into play only when modifications or additions to those DTV allotment tables are proposed. Mexico has included in its allotment table new DTV stations at Tijuana on both Channel D47 and D29, specifying different site coordinates for each, separated by 13.8 kilometers. Therefore, KHSC-DT would have a co-channel protection requirement on either its allotted or proposed channel.

The KHSC-DT allotment on Channel D47 is 213.8 kilometers from the Tijuana Channel D47 allotment, which would be 9.2 kilometers short-spaced were it not already a specially negotiated allotment, while Channel D29 at the KHSC-DT allotment coordinates would be 222.8 kilometers from the Tijuana Channel D29 allotment, 0.2 kilometers short-spaced. Since KHSC-DT was not allotted Channel D29, that new short-spacing would require Mexican approval. This is in contrast to KHSC-DT operating on its allotted Channel D47 even with the increased ERP it requested, as the channel assignment complies with the MOU and therefore would require no Mexican concurrence or even notification.

Summary

The substitution of Channel D29 for Channel D47 for KHSC-DT at Ontario, California, is unnecessary, because that station's desired ERP increase to 155 kW can be accomplished on its allotted Channel D47, avoiding the need for Mexican concurrence.

March 26, 2001



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William F. Hammett, P.E.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

CERTIFICATE OF SERVICE

I, Donald E. Martin, hereby certify this 27th day of March, 2001, that I have caused a copy of the foregoing document to be served by United States mail with first class postage prepaid upon the following:

Jacqueline P. Cleary, Esquire
Sumeet Seam, Esquire
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004

A handwritten signature in black ink, appearing to read "Donald E. Martin", is written over a horizontal line.

Donald E. Martin